

## FAIR POLITICAL PRACTICES COMMISSION

### Memorandum

**To:** Chairman Johnson and Commissioners Hodson, Huguenin, Leidigh and Remy

**From:** Valentina Joyce, Commission Counsel, Legal Division  
Carla Wardlow, Chief, Technical Assistance Division  
Scott Hallabrin, General Counsel

**Subject:** Prenotice Discussion of Adoption of Proposed Regulation 18531.2 – Refunding General Election Contributions

**Date:** August 31, 2007

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Proposed Commission Action and Staff Recommendation: Approve publication of notice for adoption of Regulation 18531.2 at the November Commission meeting.

Reason for Proposal: Section 85318 permits a candidate for elective state office to raise contributions for a general election prior to the primary election for the same office. It provides, in pertinent part: “if the candidate for elective state office is defeated in the primary election ... the general election ... funds shall be refunded to the contributors on a pro rata basis *less any expenses* associated with the raising and administration of general election ... contributions.” (Emphasis added.) It is often necessary for candidates to commit funds to goods and services that will be required for a general election campaign while the primary campaign is still in progress. While Section 85318 permits expenses to be deducted from contributions that must be refunded, it provides no guidance as to how the expenses should be allocated between the primary and general elections.

Candidates who accept the Act’s voluntary expenditure ceilings (Section 85400 et seq.) are required to report expenditures against their general election funds on campaign reports filed during the course of the primary under allocation rules specified by Regulation 18540. Regulation 18540 was enacted to regulate the allocation of these expenditures for purposes of the separate expenditure limits for general and primary elections. Staff has advised in an advice letter<sup>1</sup> that the allocation rules of Regulation 18540 apply to Section 85318. Adoption of Regulation 18531.2 would codify this advice.

Summary of Proposed Action: Adopt new Regulation 18531.2 providing that candidates shall use the allocation rules of Regulation 18540, subdivision (a)(1) through (a)(7), for allocating expenses between primary and general elections under Section 85318.

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<sup>1</sup> Boling Advice Letter, No. A-06-13

**Attachments: 1 - Proposed Regulation 18531.2**  
**2 - Government Code Section 85318**  
**3 - Regulation 18540**

